

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DANIEL RICHARD HURLEY,)
Petitioner,)
)
v.) 2:16-cv-01891-AJS-RCM
)
WARDEN BRIAN THOMPSON and)
THE ATTORNEY GENERAL OF THE STATE)
OF PENNSYLVANIA,)
Respondents.)

MEMORANDUM and ORDER

Presently pending before the court is a petition for a writ of habeas corpus. On December 22, 2016, Magistrate Judge Robert C. Mitchell, to whom this case was assigned and is now referred, entered a Memorandum Opinion and Order in which he noted that the Antiterrorism and Effective Death Penalty Act prohibits district courts from entertaining claims presented in a second or successive habeas corpus application unless the appropriate federal court of appeals authorizes such filing. 28 U.S.C. § 2244(b)(3). The Court issued a show cause order that the petitioner show cause on or before January 13, 2017 why the petition should not be dismissed as submitted without leave having first been obtained from the Court of Appeals, the instant petition having been improperly filed in this court as opposed to the Court of Appeals as required. No response to the show cause order has been filed. This Court lacks jurisdiction over the petition without the authorization of the Court of Appeals.

AND NOW, this 29TH day of March, 2017, the instant petition is DISMISSED and because reasonable jurists could not conclude that a basis for appeal exists, a certificate of appealability is denied.

IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure if the petitioner desires to appeal from this Order he must do so within thirty

(30) days by filing a notice of appeal as provided in Rule 3, Fed. R. App. P.

s/Arthur J. Schwab
Arthur J. Schwab
United States District Court Judge

cc: DANIEL RICHARD HURLEY
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